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18 *Attorneys for Plaintiff*
ORACLE AMERICA, INC.

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21 ORACLE AMERICA, INC.

22 Plaintiff,

23 v.

24 GOOGLE, INC.

25 Defendant.

26 Case No. CV 10-03561 WHA

27
28 **DECLARATION OF GEORGE SIMION IN
SUPPORT OF ORACLE AMERICA,
INC.'S OPPOSITION TO GOOGLE'S
MOTION TO STRIKE PORTIONS OF
THIRD EXPERT REPORT**

Dept.: Courtroom 8, 19th Floor
Judge: Honorable William H. Alsup

1 I, GEORGE SIMION, declare as follows:

2 1. I am an employee of Oracle America, Inc. (“Oracle”). My title is Senior Patent
3 Counsel. I have personal knowledge of the facts set forth herein. If called upon to testify, I could
4 and would testify as follows.

5 2. In my capacity as counsel to Oracle, I assisted in the patent ranking exercise that is
6 described in the Expert Report of Iain M. Cockburn, dated February 3, 2012, as revised February 9,
7 2012. I have reviewed the description of the process contained in paragraphs 391 through 396 of that
8 report, and based on my personal involvement with that process, I believe that Prof. Cockburn’s
9 description is accurate.

10 3. In order to assist with this patent ranking exercise, I performed three patent searches
11 using Thomson Innovation patent database on or about January 24, 2012. I had no other role in the
12 exercise, except as an observer and to provide legal advice when requested.

13 4. Thomson Innovation patent database is a commercial patent search and analysis
14 database product offered by Thomson Reuters and is available to the general public on subscription-
15 based terms. The Thomson Innovation patent database has a menu-driven interface that allows a user
16 to perform various patent searches using a combination of key words and other parameters, including
17 for example patent Assignee Name, Date Range, Inventor Name(s), and technical words expected to
18 be found in a patent, e.g. Java. The patent information that I obtained using the Thomson Innovation
19 patent database could have been retrieved by performing patent searches on the Patent and
20 Trademark Office website.

21 5. My first search captured U.S. patents issued to Sun Microsystems, Inc. (SMI) between
22 January 1, 1992 and June 30, 2006 that included the term ‘Java’ or ‘bytecode’ anywhere in the patent.

23 6. My second search captured all SMI-issued patents between January 1, 1992 and June
24 30, 2006 that listed James Gosling as an inventor.

25 7. My third search captured all U.S.-issued patents held by Sun that identified Nedim
26 Fresko as an inventor and were applied for while Mr. Fresko was a Sun employee.

27 8. I provided the results of these searches in an Excel spreadsheet to Dr. Mark Reinhold
28 and Dr. Peter Kessler on January 24 and January 25, 2012. The total number of patents that were

1 identified through my searches was approximately 1320.

2 9. The '720 patent was not issued until September 16, 2008. It and other patents listing
3 Nedim Fresko as inventor were included in my search results and the spreadsheet I gave Dr. Reinhold
4 and Dr. Kessler, even though they were issued after June 30, 2006. This is because I did not include
5 date restrictions in my searches for patents invented by Mr. Fresko.

6 I declare under penalty of perjury that the foregoing is true and correct.

7 DATED: February 24, 2012

/s/ George Simion

George Simion

BOIES, SCHILLER & FLEXNER LLP
OAKLAND, CALIFORNIA

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1 ATTESTATION OF FILER
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3 I, Steven C. Holtzman, have obtained George Simion's concurrence to file this document on
4 his behalf.

5 Dated: February 24, 2012

6 BOIES, SCHILLER & FLEXNER LLP

7 By: /s/ Steven C. Holtzman
8 Steven C. Holtzman

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